

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

WILLIAM C. SHAW,

Plaintiff,

v.

LINCOLN HATHAWAY, ED
HAY, ROBERT COSSEY, SCOTT
MASON,

Defendants.

NO. CV-09-026-RHW

**ORDER DISMISSING CASE
WITHOUT PREJUDICE**

A telephonic scheduling conference was held on October 29, 2009. Defendant Robert Cossey was represented by Gerald Kobluk; Defendants Hay and Mason were represented by James Kaufman. Defendant Hathaway was represented by Jarold Cartwright. Plaintiff did not participate in the hearing.

Previously, the Court indicated to the parties that it believed that *Heck v. Humphrey* applied to Defendant's present cause of action asserting § 1983 claims. The Court directed the parties to submit briefing addressing whether *Heck v. Humphrey* would warrant the dismissal of Plaintiff's cause of action.

The Court has read the parties' briefing. Defendants concur that this action is barred by *Heck v. Humphrey*. It appears that Plaintiff has filed a habeas petition that attempts to challenge the underlying conviction. Thus, the Court will dismiss Plaintiff's claims without prejudice, finding that Plaintiff's claims are barred by *Heck v. Humphrey*.

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1 Accordingly, **IT IS HEREBY ORDERED:**

2 1. The above-captioned case is **dismissed** without prejudice.

3 2. All pending motions are **denied** as moot.

4 **IT IS SO ORDERED.** The District Court Executive is directed to enter this
5 Order, forward a copy to Plaintiff and counsel, and **close the file.**

6 **DATED** this 6th day of November, 2009.

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8 *s/Robert H. Whaley*
9 ROBERT H. WHALEY
10 United States District Judge

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